

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

NXIVM CORPORATION,

Petitioner,

Civ. Action No.

1:11-MC-0058 (GLS/DEP)

v.

BARBARA BOUCHEY,

Respondent.

APPEARANCES:

OF COUNSEL:

FOR PETITIONER:

O'CONNELL, ARONOWITZ FIRM
54 State Street
9th Floor
Albany, NY 12207-2501

PAMELA A. NICHOLS, ESQ.
STEPHEN R. COFFEY, ESQ.

FOR RESPONDENT:

BARBARA BOUCHEY, *Pro Se*
19 Kempton Place
Apt. 8
Saratoga Springs, NY 12866

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

On October 24, 2011, I issued a decision and order in this miscellaneous matter in which I denied an application by petitioner NXIVM Corporation (“NXIVM”) for a contempt finding against respondent Barbara Bouchey, but awarded NXIVM reasonable attorneys’ fees associated with the preparation, filing, and argument of the contempt motion. Dkt. No. 25. Since that time, NXIVM has filed with the court an application seeking recovery of a total of \$10,272.50, representing fourteen hours of time spent by Pamela A. Nichols, Esq., billed at a rate of \$375.00 per hour, and twenty-eight and seven-tenths hours of time for Joshua McMahon, Esq., whose billing rate is \$175.00 per hour. Dkt. No. 26. The application is supported by billing summaries generated from daily time records maintained by NXIVM’s counsel. *See id.*

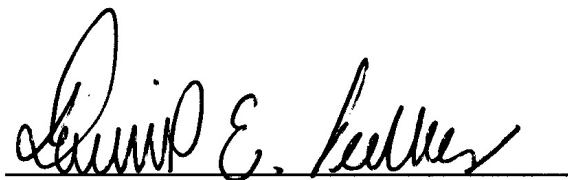
In response to NXIVM’s fee application respondent Bouchey has submitted an affirmation with supporting exhibits, including the trial court’s decision in connection with the related bankruptcy proceeding in the Western District of Washington. Dkt. No. 27. In her opposition, respondent Bouchey largely relies upon arguments that were previously considered but rejected by the court when ordering respondent to appear for deposition.

Upon careful consideration of the parties' submissions, finding that the billing rates utilized to calculate the fee application exceed the reasonable rates which a client in this district would be willing to pay for services of the type rendered, and that the hours for which fees are sought are somewhat excessive, in the interest of justice, it is hereby

ORDERED as follows:

- 1) Plaintiff NXIVM is awarded costs and attorneys' fees in the sum of \$5,000, to be paid by respondent Bouchey.
- 2) The clerk is respectfully directed to enter judgment in that amount in NXIVM's favor and against respondent Barbara Bouchey.
- 3) The clerk is further respectfully directed to thereafter close this miscellaneous matter.

Dated: December 9, 2011
Syracuse, NY

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge